

AMENDED IN SENATE AUGUST 5, 2002

AMENDED IN SENATE JUNE 17, 2002

AMENDED IN ASSEMBLY MAY 13, 2002

AMENDED IN ASSEMBLY APRIL 22, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2205

Introduced by Assembly Member Koretz
(Coauthors: Assembly Members Havice, Longville, and Vargas)
(Coauthors: Senators Ortiz and Soto)

February 20, 2002

An act to ~~amend, repeal, and add Section 30474~~ *add and repeal Section 30474.5* of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2205, as amended, Koretz. Tobacco products: prevention of sales of untaxed cigarettes: multiagency task force.

The existing Cigarette and Tobacco Products Tax Law imposes a specified tax on the distribution of cigarettes. Existing law also imposes a penalty of \$100 for each carton of 200 cigarettes, or portion thereof, upon any person who knowingly possesses, keeps, stores, or retains for the purpose of sale, or sells, or offers to sell, any package of cigarettes to which there is not affixed a stamp or meter impression. Existing law requires, with regard to the \$100 penalty for the distribution of a carton of black-market cigarettes, that the court transmit 50% of the penalty assessed to the local prosecuting jurisdiction and 50% of the penalty

assessed to the State Board of Equalization for transmittal to the Treasurer for deposit in the General Fund.

This bill would, for the period beginning on January 1, 2003, and ending on January 1, 2006, ~~increase the~~ *impose an additional* penalty for the distribution of black-market cigarettes ~~to \$200 in an amount equal to \$100~~ per carton, and would provide for the additional \$100 penalty to be deposited in the Unlawful Sales Reduction Fund, which the bill would create, for appropriation by the Legislature to the Office of Criminal Justice Planning to be allocated for the funding of a competitive grant program, to be established by the Legislature, to award grants to local jurisdictions to establish a multiagency task force for the purpose of significantly reducing the sales of black-market cigarettes and creating a deterrent to those sales, through the focused investigation and prosecution of sales of black-market cigarettes and other associated offenses and crimes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—Section 30474 of the Revenue and Taxation~~
2 *SECTION 1. Section 30474.5 is added to the Revenue and*
3 *Taxation Code, to read:*
4 *30474.5. (a) This section shall be known as and may be cited*
5 *as the Black Market Cigarette and Street Corruption Prevention*
6 *Act.*
7 *(b) The Legislature finds that the sale of blackmarket, untaxed*
8 *cigarettes has resulted in the loss of hundreds of millions of dollars*
9 *in revenue to the state, robbing state health care and programs*
10 *designed to help children.*
11 *(c) It is the intent of the Legislature, by enacting the act adding*
12 *this section, to provide resources to prosecutors and local law*
13 *enforcement personnel, and to enable local jurisdictions to*
14 *develop a multiagency task force for the purpose of significantly*
15 *reducing the sales of blackmarket cigarettes and creating a*
16 *deterrent to those sales through the focused investigation and*
17 *prosecution of sales of blackmarket cigarettes, and other*
18 *associated offenses and related crimes.*
19 *(d) In addition to the fine or sentence, or both, imposed by*
20 *Section 30474, each person convicted under Section 30474 shall*

1 *pay one hundred dollars (\$100) for each carton of 200 cigarettes,*
2 *or portion thereof, knowingly possessed, or kept, stored, or*
3 *retained for the purpose of sale, or sold or offered for sale in*
4 *violation of Section 30474, as determined by the court. The court*
5 *shall direct that the penalty of one hundred dollars (\$100) assessed*
6 *under this section shall be transmitted to the Controller for deposit*
7 *in the Unlawful Sales Reduction Fund, which is hereby created.*
8 *Upon appropriation by the Legislature, the moneys in the fund*
9 *shall be allocated to the Office of Criminal Justice Planning for the*
10 *funding of a competitive grant program to be established by the*
11 *Legislature to award grants to local jurisdictions for the purpose*
12 *of establishing a multiagency task force, the composition of which*
13 *shall include prosecutors and local law enforcement personnel*
14 *and may include state law enforcement personnel, for the purpose*
15 *of significantly reducing the sales of blackmarket cigarettes, and*
16 *creating a deterrent to those sales through the focused*
17 *investigation and prosecution of sales of blackmarket cigarettes*
18 *and other associated offenses and related crimes. No more than 5*
19 *percent of the amount transmitted from the penalty of one hundred*
20 *dollars (\$100) assessed under this section may be retained to fund*
21 *the costs of administering the competitive grant program.*

22 *(e) The Office of Criminal Justice Planning shall consult with*
23 *the State Board of Equalization in the administration of the*
24 *competitive grant program.*

25 *(f) (1) The one hundred dollar (\$100) penalty for each carton*
26 *of 200 cigarettes knowingly possessed, or kept, stored, or retained*
27 *for the purpose of sale, or sold, or offered for sale in violation of*
28 *Section 30474, as authorized under subdivision (d), shall only be*
29 *imposed for the period beginning on January 1, 2003, and ending*
30 *on January 1, 2006.*

31 *(2) This section shall remain in effect until December 1, 2006,*
32 *or until all the moneys remaining in the Unlawful Sales Reduction*
33 *Fund on January 1, 2006, have been appropriated by the*
34 *Legislature for allocation to the Office of Criminal Justice*
35 *Planning for funding the competitive grant program established*
36 *under this section, whichever occurs later.*

37 ~~Code is amended to read:~~

38 ~~30474. (a) This section shall be known as and may be cited~~
39 ~~as the Black Market Cigarette and Street Corruption Prevention~~
40 ~~Act.~~

~~(b) The Legislature finds that the sale of black-market, untaxed cigarettes has resulted in the loss of hundreds of millions of dollars in revenue to the state, robbing state health care and programs designed to help children.~~

~~(c) It is the intent of the Legislature, by enacting the act adding this subdivision, to provide resources to prosecutors and local law enforcement personnel, and to enable local jurisdictions to develop a multiagency task force for the purpose of significantly reducing the sales of black-market cigarettes and creating a deterrent to those sales through the focused investigation and prosecution of sales of black-market cigarettes, and other associated offenses and related crimes.~~

~~(d) Any person who knowingly possesses, or keeps, stores, or retains for the purpose of sale, or sells or offers to sell, any package of cigarettes to which there is not affixed the stamp or meter impression required to be affixed under this part, when those cigarettes have been obtained from any source whatever, is guilty of a misdemeanor and shall for each offense be fined not more than one thousand dollars (\$1,000), or be imprisoned for not exceeding one year in a county jail, or be subject to both fine and imprisonment, in the discretion of the court. In addition to the fine or sentence, or both, each person convicted under this section shall pay two hundred dollars (\$200) for each carton of 200 cigarettes, or portion thereof, knowingly possessed, or kept, stored, or retained for the purpose of sale, or sold or offered for sale in violation of this section, as determined by the court. The court shall direct that 50 percent of the first one hundred dollars (\$100) of the penalty assessed be transmitted to the local prosecuting jurisdiction, to be allocated for costs of prosecution, and 50 percent of the first one hundred dollars (\$100) of the penalty assessed be transmitted to the State Board of Equalization. The court shall direct that the second one hundred dollars (\$100) of the penalty assessed shall be transmitted to the Controller for deposit in the Unlawful Sales Reduction Fund, which is hereby created. Upon appropriation by the Legislature, the moneys in the fund shall be allocated to the Office of Criminal Justice Planning for the funding of a competitive grant program to be established by the Legislature to award grants to local jurisdictions for the purpose of establishing a multiagency task force, the composition of which shall include prosecutors and local law enforcement personnel and~~

~~may include state law enforcement personnel, for the purpose of significantly reducing the sales of black-market cigarettes, and creating a deterrent to those sales through the focused investigation and prosecution of sales of black-market cigarettes and other associated offenses and related crimes. No more than 5 percent of the amount transmitted from the second one hundred dollars (\$100) of the penalty assessed may be retained to fund the costs of administering the competitive grant program.~~

~~(e) The Office of Criminal Justice Planning shall consult with the State Board of Equalization in the administration of the competitive grant program.~~

~~(f) (1) The two hundred dollar (\$200) penalty for each carton of 200 cigarettes knowingly possessed, or kept, stored, or retained for the purpose of sale, or sold, or offered for sale in violation of this section, as authorized under subdivision (d), shall only be imposed for the period beginning on January 1, 2003, and ending on January 1, 2006.~~

~~(2) This section shall remain in effect until December 1, 2006, or until all the moneys remaining in the Unlawful Sales Reduction Fund on January 1, 2006, have been appropriated by the Legislature for allocation to the Office of Criminal Justice Planning for funding the competitive grant program established under this section, whichever occurs later.~~

~~SEC. 2. Section 30474 is added to the Revenue and Taxation Code, to read:~~

~~30474. (a) Any person who knowingly possesses, or keeps, stores, or retains for the purpose of sale, or sells or offers to sell, any package of cigarettes to which there is not affixed the stamp or meter impression required to be affixed under this part, when those cigarettes have been obtained from any source whatever, is guilty of a misdemeanor and shall for each offense be fined not more than one thousand dollars (\$1,000), or be imprisoned for not exceeding one year in a county jail, or be subject to both fine and imprisonment, in the discretion of the court. In addition to the fine or sentence, or both, each person convicted under this section shall pay one hundred dollars (\$100) for each carton of 200 cigarettes, or portion thereof, knowingly possessed, or kept, stored, or retained for the purpose of sale, or sold or offered for sale in violation of this section, as determined by the court. The court shall direct that 50 percent of the penalty assessed be transmitted to the~~

- 1 ~~local prosecuting jurisdiction, to be allocated for costs of~~
- 2 ~~prosecution, and 50 percent of the penalty assessed be transmitted~~
- 3 ~~to the State Board of Equalization.~~
- 4 ~~(b) This section shall become operative on January 1, 2006.~~

